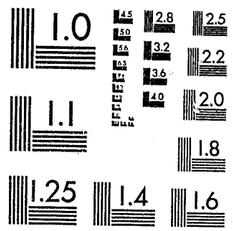

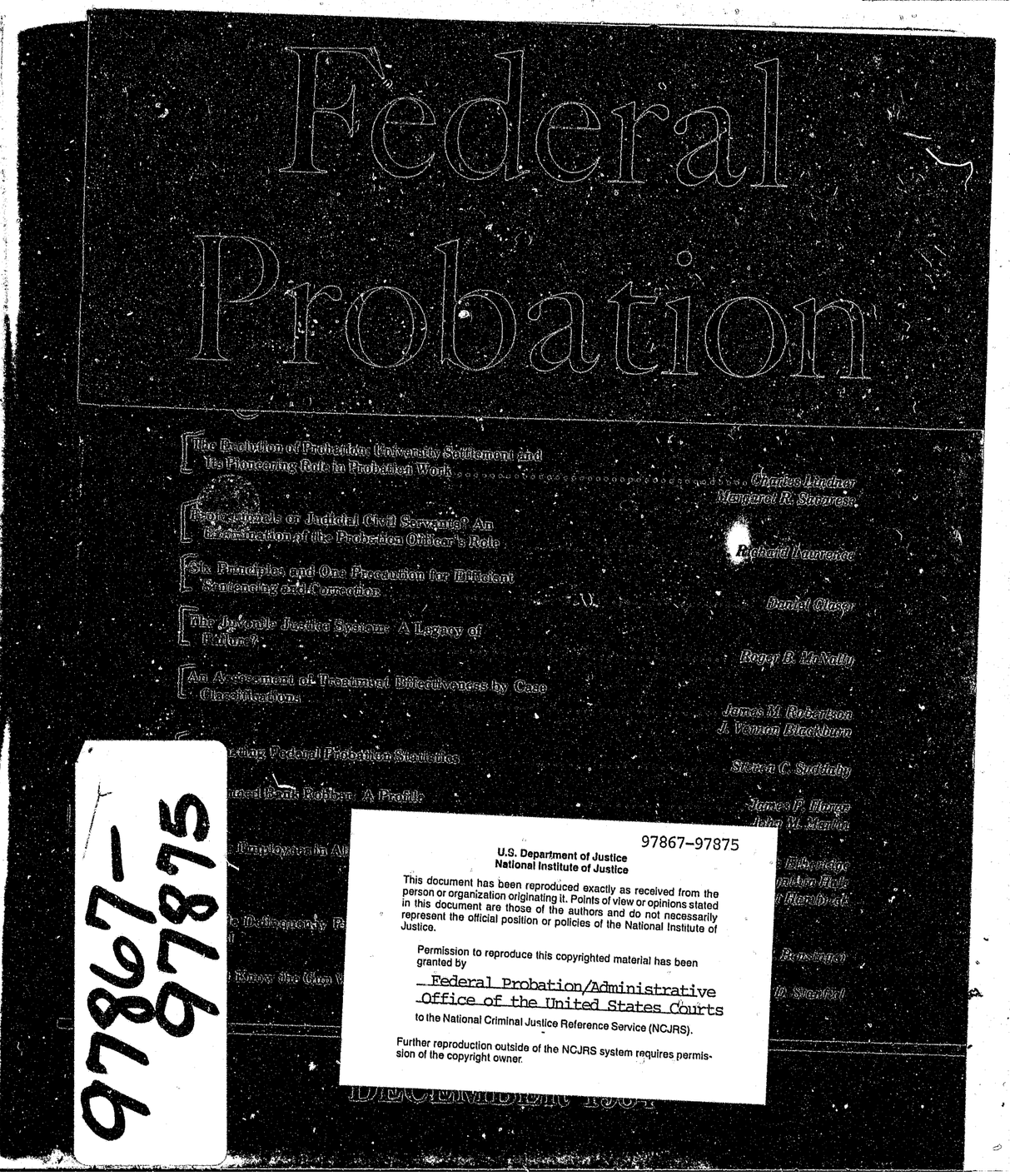

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This Issue In Brief

The Evolution of Probation: University Settlement and Its Pioneering Role in Probation Work.—In the final article of a series of four on the evolution of probation, authors Charles Lindner and Margaret Savarese further explore the link between the settlement movement and the beginnings of probation in this country by focusing on one particular settlement, the University Settlement Society of New York City. Close examination of the University Settlement papers revealed that this settlement, during the late 1890's and early 1900's, expanded its programs and activities to meet the growing needs of the people of the Lower East Side and became very much involved in probation work at the same time. This involvement included experimentation with an informal version of probation prior to the passage of the first probation law in New York State, the appointment of a settlement resident as the first civilian probation officer immediately following passage of this law, the creation of a "probation fellowship" sponsored by one of the settlement benefactors, and the description of this probation work in various publications of the day.

Professionals or Judicial Civil Servants? An Examination of the Probation Officer's Role.—A major issue and question in the probation field is whether probation officers are professionals. In this study, Richard Lawrence examines whether probation officers see themselves as professionals and the extent to which they experience role conflict and job dissatisfaction. The study also looks at how probation officers perceive their roles in relation to the judicial process and the services provided to probationers. Three factors were found to make a difference in officers' role preference and whether they experience role conflict: size of their department (and city), age, and years of experience. A number of recommendations are offered to give probation officers equal professional status with judicial personnel and more autonomy to exercise their professional skills in the court organization.

Six Principles and One Precaution for Efficient Sentencing and Correction.—According to author Daniel Glaser, more crime prevention per dollar in sentencing and correction calls for: (1) an economy principle of maximizing fines and minimizing in-

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carceration; (2) noncriminalization of offenders who have strong stakes in conformity; (3) crime-spree interruption; (4) selective incapacitation; (5) reducing inmate pressures from other inmates and increasing staff and outsider influences; (6) appropriate vocational training of offenders. These goals require avoidance of sentences based purely on just deserts.

The Juvenile Justice System: A Legacy of Failure?—In a follow-up to his previous article, "Juvenile Court: An Endangered Species" (*Federal Probation,* March 1983), author Roger B. McNally expands the notion that the juvenile justice system is on the brink of extinction. The author identifies five contemporary themes which are jeopardizing the very existence of juvenile justice and strongly suggests that if the present course of events goes unabated, this system—by the turn of the century—may be recorded in the annals of history as a legacy of failure and a system that self-destructed. The article identifies the *need* for a separate system of justice by citing examples of failure when the adversarial model is applied to juvenile matters. The author maintains that the juvenile justice system is at a crossroad which requires an affirmation rather than a condemnation of the notion that youth are more than "short adults" necessitating incapacitation until they "grow-up."

An Assessment of Treatment Effectiveness By Case Classifications.—Authors James M. Robertson and J. Vernon Blackburn studied the effects of treatment upon probationers by formulating three questions which asked if court-ordered treatment had any effect on the revocation percentage of probationers in the minimum, medium, and maximum supervision categories as established by four major base expectancy scales. Summarized, the treatment group had lower revocation percentages in 10 out of 12 supervision categories. These results led to positive conclusions regarding the effects of treatment in reducing probation failures.

Forecasting Federal Probation Statistics.— The procedures used in forecasting Federal probation population totals are explained with the intention of making these techniques available to the individual probation office. Author Steven C. Suddaby discusses long- and short-term projections and difficulties which are peculiar to probation forecasting.

The Armed Urban Bank Robber: A Profile.—An analysis of 500 armed bank robbers revealed that they do not fit the stereotype of sophisticated professional criminals, say authors James F. Haran and John M. Martin. Rather, these robbers are a cohort of young adult, unattached, socially disorganized males, predominately black, poorly educated, and lacking vocational skills; most are unemployed, previously arrested property offenders. Twenty-five percent are drug addicts. They make little profit from their crimes, are swiftly arrested, and receive long jail sentences. A fourfold typology of offenders is developed based on career patterns of prior property crime offenses. The authors propose that selective sentencing, focused more on the career pattern rather than the crime, might render a more effective sentencing formula.

Female Employees in All-Male Correctional Facilities.—Court decisions have opened the doors for women to work in male corrections, but the real struggle to find acceptance and promotion within the system is just beginning. According to authors Rose Etheridge, Cynthia Hale, and Margaret Hambrick, this struggle takes place within the parameters established by inmate, staff, and community attitudes and the attitudes and motivations of the woman herself. Images of women developed long before the working relationships color her interactions with inmates and staff. The authors stress that the woman must understand what is happening and use specific coping strategies if she wants to succeed.

Juvenile Delinquency Prevention and Control in Israel.—The number of youth committing serious crimes in Israel is reaching alarming proportions. After discussing the scope and dimensions of the delinquency problem in Israel, author Gad J. Bensinger describes the Israeli juvenile justice system and explains the prevention and control strategies of the police, the courts, and the juvenile probation department. Although law enforcement and delinquency prevention was never a national priority in Israel, a reallocation of resources may be required to meet the new domestic needs.

I Didn't Know The Gun Was Loaded.—The judgment of criminal intent has become formalized in Western law as a way of appreciating more fully the nature and quality of an unlawful act and, implicitly, assessing the character and social fitness of the accused. However desirable in theory, the evidential determination of intent, a subjective phenomenon, may pose complex problems. Author James D. Stanfiel proposes a revised concept of criminal intent, one less heavily dependent upon rational choice as a precondition of legal accountability.

The Evolution of Probation

University Settlement and its Pioneering Role in Probation Work*

BY CHARLES LINDNER AND MARGARET R. SAVARESE**

ALTHOUGH THE settlement movement originated in England with the founding of Toynbee hall in 1884, the underlying settlement idea was quickly appropriated by a small band of young, energetic Americans and transported to the United States. Here, it took hold and spread so rapidly that by the turn of the century, there were more than 100 settlement houses, of all types and descriptions, most of them located in the largest, most heavily populated urban centers.

There were many similarities between the English social settlement movement and its American cousin. Both had come about as a response to the ever-growing tide of urbanization and industrialization, and both were envisioned as one possible remedy for the social rifts and disorganization which inevitably accompanied these two processes. Thus, the settlement movement on both sides of the Atlantic attempted to repair these rifts and "sought to reconcile class to class, race to race, and religion to religion."[1] The English and American settlement movements were also very much alike in that both tended to attract clergymen, professors, writers, and, more than anyone else, young men and women eager to serve their fellow man in some socially useful way. In America, the pioneering settlement residents were, invariably, not only young but also well-educated, usually with some post-graduate training, from solidly middle or upper-class backgrounds, and of old, Anglo-Saxon, Protestant stock.

In addition to the similarities, there were also differences between the English and American versions of the settlement movement. Unlike their English counterparts which were often church-affiliated, most of the American settlements were deliberately nonsectarian and devoid of any formal adherence to doctrine or ritual, although the individual founders and leaders were often deeply religious themselves. An even more significant difference was the involvement of many of the American settlements in a wide variety of reform measures designed to improve the lot of the thousands of impoverished immigrants who were pouring into the already congested, tenement neighborhoods. Their continuous day-to-day presence in these neighborhoods brought the early settlement residents face-to-face with a bewildering array of problems that cried out for attention and amelioration and turned many of them into political activists. Jane Addams, of Hull House, touched on just a few of the problems which galvanized settlement residents into fighting for social change when she wrote:

> Insanity housing, poisonous sewage, contaminated water, infant mortality, the spread of contagion, adulterated food, impure milk, smoke-laden air, ill-ventilated factories, dangerous occupations, juvenile crime, unwholesome crowding, prostitution, and drunkenness are the enemies which the modern city must face and overcome would it survive.[2]

Thus, settlement workers became deeply involved in a broad range of reform activities aimed at eliminating these conditions, and one of the many reform measures which attracted their support was an innovation known as probation. The active role played by a number of very influential settlement leaders in helping probation become an accepted practice has been virtually ignored, although the part they played was a truly critical one. This article continues to explore the link between the settlement movement and the beginning probation movement by focusing on one particular settlement, University Settlement of New York City, and by examining its active involvement and support of probation during its infancy around the turn of the century.

The Early Years of University Settlement

University Settlement, which went on to become one of the most influential of all the settlements, began rather inauspiciously, as the Neighborhood Guild, in a dilapidated tenement on the Lower East Side of Manhattan. The founder was Stanton Coit, a moody, idealistic intellectual who had spent some

*This is the final article in a series of four.

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[1] Clarke Chambers, *Seedtime of Reform: American Social Service and Social Action, 1918-1933.* Minneapolis: University of Minnesota Press, 1963, p. 14.

[2] *Ibid.*, p. 16.

prisoners, hence their tax payments in excess of training costs, in addition to reducing recidivism.[13]

Conclusion

The six principles set forth here to maximize the public's longrun protection from known offenders at minimum cost, all imply penalties sufficient for general deterrence of nonoffenders but diverse reactions to different types of criminals. Successful application of these principles requires careful assessment of both the criminal and the noncriminal past record of each convicted person before sentencing, and if incarceration is deemed necessary, minimum criminalization and maximum retraining during confinement. Continuous statistical monitoring can determine how well the decisions guided by such principles provide cost-effective protection for the public and whether improved guidelines for sentencing and correction could increase this protection.

[13] Gilbert J. McKee, Jr., *A Cost-Benefit Analysis of Vocational Training in the California Prison System.* Ph.D. Dissertation in Economics, Claremont Graduate School, 1972; Gilbert J. McKee, Jr., "Cost Effectiveness and Vocational Training," in Norman Johnston and Leonard D. Savitz (Eds.), *Justice and Corrections.* N.Y.: Wiley, 1978.

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The Juvenile Justice System: A Legacy of Failure?*

BY ROGER B. MCNALLY

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IT HAS been demonstrated by national reports, surveys, policies, scholars, etc., that the juvenile justice system is, in fact, at a crossroad. Some would label this an "identity crisis." As with its big brother, adult system, decisions as to new directions are imminent. If there is a need for a dual system of justice in this country, then it's time to re-examine and re-order priorities as well as adopt measures which will alter the present course of events.

Conversely, others would argue that the juvenile justice system has been a failure and that the present course of events, that is, the development of tougher juvenile codes, holding violent youth more responsible for their behavior, elimination of status offenders from the jurisdiction of juvenile court, etc., is clearly the most appropriate and desirable trend. However, recent data suggest that the assumptions and goals these trends are predicated on are questionable. Hence, they need to be challenged and analyzed if society expects to profit from nearly 80 years of social justice.

Therefore, it is the purpose of this article to identify, analyze, and challenge current issues that are and will be shaping the future of juvenile justice through the end of the century. From this analysis the author will demonstrate that many of these trends reflect *faulty* assumptions and that the end product will have serious policy implications, jeopardizing the entire concept of juvenile justice in America. Lastly, by focusing attention on these trends, it is hoped that policymakers will take heed and reverse this demise; or minimally, will have the courage to develop a course of action that is based upon a sound statistical foundation for juvenile justice.

Themes

The author produced a monograph "Juvenile Court: An Endangered Species" (McNally, 1983) alerting professionals to the fact that our (American) concept of juvenile justice is threatened with extinction and suggesting that if future generations of American youth are to profit from wisdom, then time is of the essence for change. Apparently this forecasting did little to yield the desired results, and the prognosis that we will ultimately have a younger and more voluminous prison population has become reality. Since that publication a series of research articles, Galvin and Polk, Krisberg and Schwartz, Sarri, Ohlin, Forst, et al., have identified prevalent themes that "...should provide lessons which will lead to more effective directions for public policy." (Galvin and Polk, 1983: 331). The irony of these *lessons* is that the future of a system of justice (juvenile) has taken a closer step toward extinction, and the end result is that nearly a century of social justice *may* become only a lingering memory.

This author has identified prevailing themes that are shaping the future of juvenile justice in this country, and they are: 1) identity crisis, 2) criminalization/decriminalization of juvenile codes, 3) public perception and policy, 4) selective incapacitation, and 5) the future of separatism. These themes, without prompt analysis and attention, will shape a system of justice for youth that will yield not only undesirable social consequences but may become the next generation's problem in need of reform.

Identity

The pivotal point of the juvenile justice system can be considered the juvenile court since it is at this juncture where policy, legislation, and wisdom become embodied in decisionmaking. The advent of proceduralism in the sixties, i.e., Kent, Gault, etc., marked the demise of paternalism and the beginning of a new era of justice for youth. "Pressure mounted, demanding justification of a separate court dealing exclusively with youthful misconduct. The Supreme Court would ...bring about the demise of separatism" (Sanborn, 1982: 132). The implications of proceduralism and later the criminalization

*Presented at the annual meeting of the Academy of Criminal Justice Science in Chicago, Illinois, March 27-30, 1984.

of juvenile codes have had a major impact in weakening the expressed intent of a separate system of justice.

Clearly the survival of the civil foundation of the court, *and* therefore the court itself, has been a losing battle. Professor Robert Martinson's controversial research work on the effects of correctional rehabilitation, the demands for mandatory sentencing statutes, lowering the age of criminal reponsibility, and the drafting of tougher juvenile codes may have dealt an irreparable blow to a failing system. These events not only signal a conservative era (1980's) in justice but identify the future method for responding to problem youth; that is, with the primary emphasis on custodial care.

Criminalization/Decriminalization

Although criminalization is antithetical to the notion of decriminalization, both have a unique meaning to the juvenile justice system, and this theme has played a major role in the emasculation of juvenile court. The trend of the 1980's has been not only a greater criminalization of juvenile behavior but the codification of procedure. In essence, it is the application of criminal procedure law (CPL) to juvenile matters that is establishing the adversarial standard as the preferred model of justice.

This is evidenced not only by the vast majority of states enacting codes to process select juvenile offenders in criminal court but by the reform of procedure. The revision of New York's Family Court Act creating Article 3 in July 1983 is a prime example of the criminalization of procedure. This reform measure places the decision to file a charge (petition) along the adversarial lines, that is, with the District/County Attorney.

This trend toward the judicial approach gained impetus with the passage of the Juvenile Justice and Delinquency Prevention Act (JJDPA) in 1974 and with the subsequent reauthorizations of 1977, 1980, and 1984. At the heart of this legislation is the requirement to remove all non-offenders from secure detention, conventional facilities, and jail. Prior to the passage of this legislation, on the average, status offenders remained institutionalized for longer periods than more serious offenders. Hence, this is the application of deinstitutionalization!

The 1984 reauthorization goes a step further and recommends, among other things, "Status Offenders should not be under the jurisdicion of the juvenile court. Responsibility for these youths, who have committed no real crimes, should be returned to their families and communities." (Ad Hoc Coalition for Juvenile Justice, 1983: 11). Consequently, should states decriminalize the status offense codes, and it appears they are, the juvenile court would lose significant jurisdiction.

Although the notion of criminalization and decriminalization seems paradoxical, one can again see how the wisdom and integrity of the juvenile court has been challenged and has slowly been losing its intended identity.

Public Perception

The state of the art of juvenile justice can be largely attributed to the general public's perception toward youth and youth's criminal behavior. However, it is of paramount importance to question the accuracy of this perception. What is alarming to this author is the inconsistency between perception of youth crime and statistical findings. This becomes very significant when perception dictates policy!

A case in point is one that Leonard Dunston, Director of New York's Division for Youth, cites: "In the Opinion Research Corporation's 1982 survey on public attitudes toward crime, 87 percent of the sample felt there has been a steady and alarming increase in the rate of serious juvenile crime. Whereas, the Federal Bureau of Investigation's crime index, another crime indicator, shows just the opposite in this case; the rate has been decreasing for almost a decade!" (Dunston, 1983: 5)

Consequently the "perceptions" become problematic in policy formulation. Since the rates, in fact, of serious violent delinquency have remained unchanged for the last 10 years (Galvin and Polk, 1983: 325), perhaps delinquency control and change mechanisms just may be having a positive effect on youth's criminal behavior. The accuracy of public opinion on the delinquency issue has serious implications when one examines the trends that become policy and are ultimately manifested in rehabilitation programs, or more realistically the lack of these. This public fear not only results in fewer treatment choices but reinforces a lack of faith in the juvenile justice system as a system to effectively address youth problems.

A change of posture away from youth development, delinquency prevention, treatment, advocacy, etc., a change resulting from fear and erroneous assumptions, appears to be shaping juvenile correction's policy for the duration of the century. This insidious trend will undoubtedly manifest itself and exacerbate overcrowding of institutions as well as have serious social consequences for problem youth.

Selective Incapacitation

Since the late 1970's there has been an increasing call by public officials for "get tough" policies targeted at chronic and violent offenders. It's ironic that this "get tough" posture is directed at a very select group of juveniles who represent a very small fraction of total delinquency. (United States Department of Justice, 1983: 32) Furthermore, some would argue that this "get tough" cult is traced to the puritanical notion that children are inherently evil and need to be cleansed. (Pogrebin, 1983)

This new wave is also referred to as "selective incapacitation," a new theory of crime, "...the idea that an effective way to sanction offenders is to reserve prison and jail space for those who are 'predictably' (emphasis supplied) the most dangerous and criminally active." (Forst,1983: 19)

This concept has and will continue to fall more disproportionately on minority groups and perpetuate the myth that there are certain groups of people who have inherent pathological tendencies to criminal behavior. Moreover, it will foster the perception that violent juvenile crime is on the increase and the juvenile court is too permissive and indulgent to effectively deal with the problem.

A close analysis of the effects of these new juvenile codes clearly demonstrates their failure. For example, effective September 1978, the New York legislature enacted a new juvenile offender law that mandated certain 13-, 14-, and 15-year-old youths be subject to criminal prosecution. A follow-up study by Merril Sobie concludes, among other things, only a small percentage of all juvenile offender cases reaches conviction stages in adult court. (Sobie, 1981: 32)

A more recent study prepared by New York State's Division of Parole serves to underscore the disproportionate number of minorities who have been victimized by the concept. (Chambers, 1983) Moreover, it reviews the nature of convictions and time served. The report, prepared in March 1983, was based on the number (N=137) of juvenile offender releasees from March 1980 through December 1982. (See Figure 1)

Age and Ethnicity

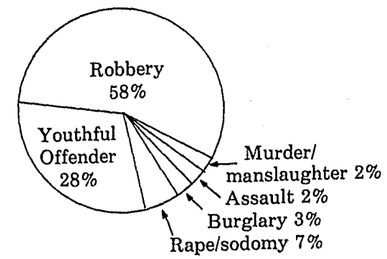
Of those juvenile offender releasees, the typical offender parolee was male (95%), Black (74%) and 17 to 19 years of age (92%).

Time Served in Facility

86% of these releasees had served two years or less in a state youth facility. More than a third (33%) had served a year or less in a state adult facility and 98% had served no more than three years.

Given the low conviction rates in Sobie's report and a cursory analysis of the aforementioned parole report, the data clearly suggest this new category of offender is not serving lengthy sentences, which was the intent of the codes. What it *does* support is the notion that minorities are the potential victims of selective incapacitation and they continue to be over-represented in the criminal justice system.

Figure 1
Crime of Conviction
N=137



Separation and the Future

A separate system of justice for youth emerged nearly a century ago predicated on a model of social justice and paternalism. The child-savers who spearheaded this separatist movement were appalled with the social conditions of urban America. They were further appalled by a unitary system of justice where adult procedures were applied to youth and by the fact that children could be given long prison sentences and mixed in jails with convicted felons. (McNally, 1982)

We are fast approaching a milestone in juvenile justice, and without question juvenile justice is on the brink of extinction. With the advent of proceduralism, the decriminalization of status offense codes, the transfer of selected youth to criminal court preceedings, and the belief and perception that the juvenile justice system has failed to curb and control the tide of delinquency, the juvenile court has been stripped of its intended purpose, that is, to service young offenders. That which is left is a miniature criminal court, duplicating adult court at considerable expense, a criticism we will undoubted-

ly hear bantered about in the future. Hence, "...the dissatisfaction with the prescriptions and objective of the traditional forum for youthful misbehavior...has rendered the juvenile court to be nothing more than a criminal court...with no singular purpose." (Sanborn, 1982: 151)

In retrospect, the demise of juvenile court was an inevitable consequence given the aforementioned. The present data strongly suggest that by the turn of the century the juvenile court may be recorded in the annals of history as a system leaving a legacy of failures; one that self-destructed!

Epilogue

This author does not accept what appears to be the inevitable as promulgated thus far. Rather, he strongly believes that the need for a separate system of justice is as viable today as it was a century ago. And if perception can influence policy, as it has in the past two decades, then researchers must begin to be heard in order to alter the present trends. In support of this assertion Lloyd Ohlin, in "The Future of Juvenile Justice Policy and Research," establishes clearly the divergence between public opinion and the facts relative to juvenile justice. (Ohlin, 1983)

Although much confidence has been lost in the juvenile justice system's ability to be a panacea for the social ills of youth, the restoration rather than abolition of a fundamentally good institution needs to be studied. "It falls upon us to have the insight to identify which parts of our system are *reasonable,* which parts are *foolish* and which parts are *utopian.*" (Regnery, 1983: 11). Closer attention must be paid to the issues raised in this article and the consequences should they go unabated.

Specifically, the disproportionate representation of ethnic and racial minority groups throughout the criminal justice system is a cause for great concern. (Ohlin, 1983: 471) Selective incapacitation is not only offensive to the potential victims, but immoral to a society that espouses freedom and human rights. This "prediction" model manifests all the fallacies and limitations of the traditional parole decision-making model that attempts to forecast law-abiding behavior.

If the educational trend of this decade is to allocate greater resources to public education, then the decriminalization of status offense codes may be a rationalistic approach. If Federal and state resources are to be granted to the local communities, then it is at the community level where truancy, runaways, domestic issues, etc., need to be addressed. Since evidence exists (Kelly, 1983) that status offenders are less likely to repeat and that their careers may be aggravated by legal processing, then a community response seems to be the most reasonable course of action.

The roots of the juvenile court were devised from good intentions. With the escalation of domestic violence, children will need a benevolent institution that will be their advocate rather than their adversary. A case in point is the 12-year-old girl in California who was placed in solitary confinement because she wouldn't testify against her father on allegations of sexual abuse. (New York Times, 1984) This gross example of the application of criminal procedure upon a minor underscores the potential abuse when the adversarial model supplants parents patrise. This child has gone through two emotionally scarring experiences; first, the abuse by her stepfather, and second, the abuse by the district attorney. This traumatic experience could have been minimized had the juvenile court retained jurisdiction and resolved this issue in the best interest of the child.

The posture of juvenile policy should be predicated on those elements that either were successful or have the potential for success. The juvenile justice system is presently at a crossroad requiring an affirmation of *the* system. The present course of events does nothing more than portray youth as "short" adults who need to be controlled until they "grow-up." Protecting and advocating for young people experiencing difficulty is as much a part of policy as is establishing mechanisms of control. It is this author's belief that the juvenile court and the attendant system need to be retained and reformed. Policymakers must have the courage to withstand adversity in espousing an unpopular position. Similarly, academicians must become more of an active watchdog.

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